

## Message Text

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ORIGIN EA-12

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NSC-05 ITC-01 JUSE-00 OMB-01 CIAE-00 INR-10  
NSAE-00 CTME-00 L-03 SIL-01 LAB-04 PA-02 DODE-00  
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UNCLAS STATE 180464

FOR GENERAL COUNSEL MUNDHEIM

E.O. 11652: N.A.

TAGS: EFIN, ETRD, JA, US

SUBJECT: JOURNAL OF COMMERCE ARTICLE ON DUMPING

1. FOLLOWING IS TEXT OF JOURNAL OF COMMERCE ARTICLE IN  
JULY 17, 1978 EDITION, BEING REPEATED FYI.
2. BEGIN TEXT.
3. DUMPING DUTIES BID CHALLENGED.
4. BY RICHARD LAWRENCE, JOURNAL OF COMMERCE STAFF

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5. WASHINGTON.

6. A SPECIAL CUSTOMS SERVICE EFFORT TO FINNALLY ASSESS  
ANTIDUMPING DUTIES ON ROUGHLY \$2 BILLION IN JAPANESE TV  
SET IMPORTS IS UNDER TREASURY DEPARTMENT CHALLENGE,  
INTERNAL MEMOS SHOW.

7. THE MEMOS PORTRAY CUSTOMS COMMISSIONER ROBERT CHASEN AS GRAVELY CONCERNED OVER THE GOVERNMENT'S CONTINUING FAILURE, AFTER YEARS OF DELAY, TO FOLLOW THROUGH ON A 1971 TREASURY FINDING THAT JAPANESE TV PRODUCERS WERE DUMPING SETS IN THE U.S. MARKET.

8. THEY ALSO MAKE CLEAR THAT THE TREASURY DEPARTMENT'S CHIEF COUNSEL, ROBERT MUNDHEIM, QUESTIONS THE UNDERLYING RATIONAL FOR CUSTOMS' PROPOSED METHOD OF ASSESSING THE DUTIES, AND PARTICULARLY ITS APPLICATION TO THREE LARGE JAPANESE FIRMS.

9. CUSTOMS, THE MEMOS INDICATE, WAS PREPARED TO START ASSESSING AN ESTIMATED \$400 MILLION IN ANTIDUMPING DUTIES THIS SPRING, BUT IT QUICKLY RESCINDED ITS ORDER TO COVER ONLY \$46 MILLION IN DUTIES, APPARENTLY AT TREASURY'S BEHEST. IN THE INTERIM, THE JAPANESE GOVERNMENT HAD OFFICIALLY OBJECTED TO THE CUSTOMS INIATIVE.

10. THE MEMOS WERE MADE PUBLIC LAST WEEK AS PART OF A PETITION BY U.S. PICTURE TUBE MANUFACTURERS ASKING CUSTOMS TO CARRY OUT ITS PROPOSED ASSESSMENT OF \$400 MILLION IN JAPANESE TV SET DUMPING DUTIES. THE PETITION WAS ENDORSED BY 11 LABOR ORGANIZATIONS IN A LETTER TO PRESIDENT CARTER.

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11. TEN YEARS AGO, U.S. TV TUBE MANUFACTURERS, PRINCIPALLY CORNING GLASS, COMPLAINED TO TREASURY THAT JAPANESE TV SETS WERE BEING DUMPED IN THE U.S. IN MARCH 1971, TREASURY FORMALLY FOUND DUMPING, CLEARING THE WAY FOR ANTIDUMPING DUTIES.

12. DATA DIFFICULTIES

13. UNTIL RECENTLY, HOWEVER, DUTIES HAD BEEN LEVIED ON ONLY THOSE SHIPMENTS ARRIVING THROUGH MARCH 1972. AN APPARENT LACK OF ACCURATE PRICING DATA ON JAPAN'S HOME

MARKET SALES, AT LEAST SOME JAPANESE MANUFACTURERS HAVE BEEN LESS THAN COOPERATIVE, THE MEMOS SUGGEST, HAS THWARTED CUSTOMS ATTEMPTS TO ASSESS DUTIES SINCE THEN.

14. MEANWHILE, THE ANTIDUMPING DUTY LIABILITIES OF THE U.S. IMPORTERS OF THE JAPANESE SETS HAVE RISEN TO AN ESTIMATED \$400 MILLION.

15. LAST OCTOBER, CUSTOMS COMMISSIONER ROBERT CHASEN WROTE TO MR. MUNDHEIM AND TREASURY UNDERSECRETARY BETTE

ANDERSON THAT CUSTOMS WOULD BEGIN ASSESSING THOSE DUTIES WITHIN "FOUR TO SIX WEEKS" ACCORDING TO A NEW FORMULA USING A JAPANESE COMMODITY TAX TO COMPUTE JAPANESE EX-FACTORY WHOLESALE PRICES.

16. THE METHOD, HE SAID, HAD BEEN "CLEARED" BY CUSTOMS "LEGAL AUTHORITIES". IT WILL "GIVE US," HE SAID, "AN ALMOST IMMEDIATE ACCESS TO USABLE FOREIGN MARKET VALUE INFORMATION, VIS-A-VIS THE CURRENT PROCEDURES WHICH NOW TAKE AT BEST TWO TO THREE YEARS."

17. PROCEDURAL DELAYS

18. PAST PROCEDURAL DELAYS, HE POINTED OUT, HAVE UNCLASSIFIED

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SERVED TO "SUBSTANTIALLY UNDERMINE THE REMEDIAL INTENT OF THE ANTIDUMPING ACT." HE CALLED THE PRESENT ADMINISTRATIVE PROCEDURES, REQUIRING COLLECTION AND ANALYSIS OF "VAST AMOUNTS OF COMMERCIAL INFORMATION" A "PERVERSION" OF THE ACT'S INTENT.

19. HE ALSO NOTED THAT "WE HAVE UNCOVERED CONSIDERABLE EVIDENCE THAT THE BASIS INFORMATION SUBMITTED TO CUSTOMS BY A NUMBER OF JAPANESE TELEVISION MANUFACTURERS IS FALSE."

20. IN A TELEX DATED MARCH 20, CUSTOMS ORDERED FIELD DIRECTORS TO ASSESS ANTIDUMPING DUTIES ON BACKLOGGED CASES FROM 1972 THROUGH EARLY 1977. BUT 10 DAYS LATER, A SECOND ORDER WAS ISSUED, LIMITING ASSESSMENTS TO ENTRIES THROUGH JUNE 1973. HOLD SUBSEQUENT ENTRIES, IT SAID, "FOR FURTHER INSTRUCTIONS."

21. MEANWHILE, THE JAPANESE EMBASSY HERE HAD DELIVERED A NOTE TO THE STATE DEPARTMENT OBJECTING TO THE CUSTOMS PLAN. QUICKLY, TREASURY CONFERRED WITH AN ARRAY OF

JAPANESE TV MANUFACTURERS, WHO PROTESTED THAT THE COMMODITY TAX FORMULA WAS "WHOLLY INADEQUATE" AND "MIS-LEADING- AND WARNED THAT THE PLANNED ASSESSMENT WOULD DO THEIR FIRMS "IRREPARABLE HARM".

22. CUSTOMS, AFTER MEETING WITH TREASURY, AGREED TO PARE BACK ITS ASSESSMENT INIATIVE.

23. SINCE THEN, MEMOS INDICATE, A DIFFERENCE IN INTER- PRETATION OF THE COMMODITY TAX METHOD'S RATIONALE HAS UNCLASSIFIED

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DEVELOPED BETWEEN MR. MUNDHEIM AND CUSTOMS OFFICIALS. IN A RECENT LETTER TO COMMISSIONER CHASEN, MR. MUNDHEIM SAYS HE BELIEVES THAT THE CUSTOMS SERVICE'S CONCERN OVER ALLEGED ILLEGAL JAPANESE REBATES TO U.S. IMPORTERS IS SUBSTANTIALLY BEHIND CUSTOMS' USE OF THE TAX FORMULA.

24. CUSTOMS OFFICIALS INSIST THAT THE FORMULA "CONSTITUTES A LEGALLY ACCEPTABLE ... METHOD ... FOR REASONS QUITE INDEPENDENT OF ANY HARD EVIDENCE OF FRAUD WHICH MIGHT EXIST."

25. TREASURY HAS DISPATCHED A CUSTOMS TEAM TO COLLECT DATA FROM THREE TV MAKERS, MATSUSHITA, JAPANESE VICTOR CORP. AND SONY, POSSIBLY TO EXEMPT THEM FROM ANY COMMODITY TAX-BASED ASSESSMENT. TREASURY APPARENTLY HAS FOUND THAT THE THREE COMPANIES HAVE NOT BEEN INVOLVED IN REBATES OR INVOICING IRREGULARITIES.

26. BY AUG. 27, TREASURY PUBLICLY PROMISED LAST WEEK, IT WILL DECIDE WHETHER TO PROCEED AT ALL WITH THE COMMODITY TAX FORMULA IN ASSESSING THE REMAINING TV SET DUTY BACKLOG. IN A LETTER TO REP. CHARLES VANIK, D-OHIO, MR. MUNDHEIM ALREADY HAS "ASSURED" THAT TREASURY WILL "MOVE IMMEDIATELY TO LIQUIDATE ALL ENTRIES THROUGH MARCH 1977," IF IT

"DECIDES THAT THE NEW APPROACH TO ASSESSMENT IS SUFFICIENTLY RELIABLE."

27. OTHERWISE, HE SAID, THE REMAINING DUTIES WON'T BE ASSESSED "UNTIL AT LEAST" ANOTHER YEAR.

28. BUT EVEN IF TREASURY ADOPTS THE COMMODITY TAX APPROACH IT COULD BE YEARS BEFORE DUMPING DUTIES GOING BACK TO 1972 ARE ACTUALLY COLLECTED. THE JAPANESE FIRMS AND U.S. IMPORTERS PROBABLY WOULD CHALLENGE THE METHOD IN COURT.

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29. END OF TEXT. CHRISTOPHER

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## Message Attributes

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